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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/779,451 | 02/13/2004 | Brenda Lee Bailey | 19948-17041 | 8964 |
| 7590 | 04/07/2006 | | EXAMINER | |
| John Wiley Horton, Attorney Pennington, Moore, Wilkinson, Bell & Dunbar, P.A. P. O. Box 10095 Tallahassee, FL 32302-2095 | | | BOGART, MICHAEL G | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3761 | |

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/779,451 | BAILEY, BRENDA LEE |
| | Examiner | Art Unit |
| | Michael G. Bogart | 3761 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 January 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 8-16 and 18-20 is/are allowed.

6) Claim(s) 1-7 and 17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 February 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948).

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Claim Objections

Claims 2, 6 and 7 are objected to because of the following informalities:

Claim 2 recites the limitation "said rear belt" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said first rear wing" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said front belt" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said rear belt" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said front belt" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Lavon et al.* (US 5,520,674 A).

Lavon et al. teach diaper (20) comprising:

a first absorbent layer (44), including

a center portion (34);

wherein said center portion (34) has an inward facing surface (39) directed toward said user when said diaper (20) is worn and an outward facing surface directed away from said user when said diaper (20) is worn;

a first opening (47);

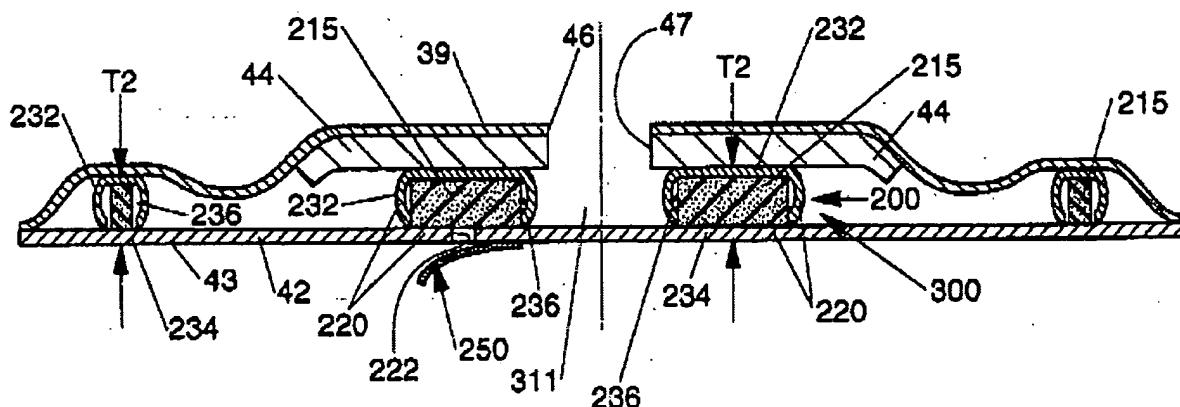
a second absorbent layer (215), lying beneath said first absorbent layer (44), including a second opening (311) aligned with said first opening (47) which is larger than said first opening (47);

a sealing layer (42) lying beneath said second absorbent layer (215);

wherein said first opening (47), said second opening (311), and said sealing layer (42) combine to define a feces receiver lying proximate said outward facing surface;

wherein the increasing size of said first and second opening (47, 311) define an undercut side wall (235) in said feces receiver; and

wherein said first and second absorbent layers (44, 215) have sufficient strength to prevent the collapse of said feces receiver under the weight of said user (col. 2, lines 18-61; col. 11, lines 35-49)(see fig. 4, infra).



Regarding claim 2, Lavan *et al.* teach that the rear belt (24) has a first rear wing and a second rear wing;

said rear belt (24) includes closure means (54) located proximate said first rear wing and said second rear wing;

said front belt (22) has a first front wing and a second front wing; and

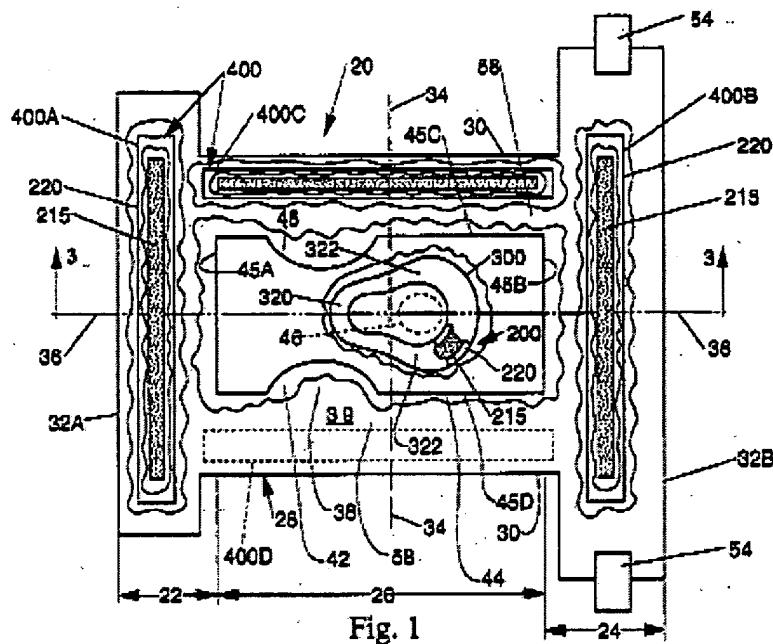
said front belt (22) includes closure means located proximate said first front wing and said second front wing (see figure 1, below).

Regarding claims 3 and 4, Lavan *et al.* at column 5, lines 23-42 teach diaper fastening systems (54) including adhesive strips and mechanical fasteners.

Regarding claim 5, Lavan *et al.* teach first and second leg reliefs (62, 64).

Regarding claims 6 and 7, Lavan *et al.* teach waist elastics (col. 5, lines 23-43).

Regarding claim 17, Roe *et al.* teach that the entire feces receiver can be removed from the rest of the diaper to empty its contents, even if that requires destroying the diaper (20).



Allowable Subject Matter

Claims 8-16, and 18-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The art of record does not disclose or fairly suggest a diaper having a interior waste chamber defined by successive aligned openings in at least three vertically stacked absorbent layers such that each opening is greater in size in the z-direction downward from the top opening which faces towards a wearer during use, than the opening immediately above it such that the top opening is larger than the second opening under it which in turn is larger than the third opening under the second opening.

Response to Arguments

Applicant's arguments with respect to claims 1-7 and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Art Unit: 3761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Bogart
3 April 2006

TATYANA ZALUKAEVA
PRIMARY EXAMINER
